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June 13, 2011

**VIA ECFS**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, D.C. 20554

RE: Notice of Ex Parte Presentation – *In the Matter of Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link-Up*, WC Docket No. 03-109.

Dear Ms. Dortch:

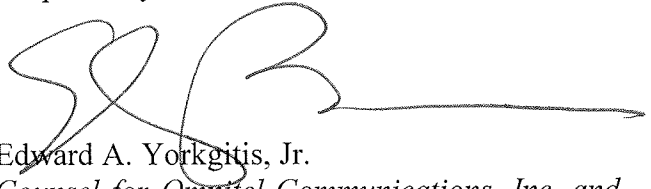
On May 6, 2011, Thomas Cohen and the undersigned, counsel to Omnitel Communications, Inc. and Tekstar Communications, Inc., met with Federal Communications Commission (FCC) staff and on May 9, 2011, electronically filed the requisite notice of *ex parte* presentation with the FCC in the above-referenced proceeding. It has come to the undersigned counsel's attention that there were four lines inadvertently omitted from the May 9, 2011 notice of *ex parte* presentation in the transition between the first and second page, as filed. Please find attached to this letter a corrected version of the May 9, 2011 notice of *ex parte* presentation, including the missing lines. The attached notice of *ex parte* presentation also corrects the date of the meeting to May 6, 2011.

KELLEY DRYE & WARREN LLP

Marlene H. Dortch, Secretary  
June 13, 2011  
Page Two

Please feel free to contact the undersigned with any questions or concerns. Thank you for your attention to this matter.

Respectfully submitted,

A handwritten signature in black ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.

Edward A. Yorkgitis, Jr.  
*Counsel for Omnitel Communications, Inc. and  
Tekstar Communications, Inc.*

Attachment

cc: Albert Lewis  
John Hunter  
Doug Slotten

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May 9, 2011

Via ECFS

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
The Portals  
445 - 12th Street, SW  
Washington, DC 20554

Re: Notice of Ex Parte Presentation – *In the Matters of*

*Connect America Fund*, WC Docket No. 10-90,  
*Establishing Just and Reasonable Rates for Local Exchange Carriers*,  
WC Docket No. 07-135,  
*A National Broadband Plan for Our Future*, GN Docket No. 09-51,  
*High-Cost Universal Service Support*, WC Docket No. 05-337,  
*Developing an Unified Intercarrier Compensation Regime*,  
CC Docket No. 01-92,  
*Federal-State Joint Board on Universal Service*, CC Docket No. 96-45.

Dear Ms. Dortch:

On May 6, 2011, Thomas Cohen and the undersigned, counsel to Omnitel Communications, Inc. (“Omnitel”) and Tekstar Communications, Inc. (“Tekstar”) Tekstar, met with the following staff from the Wireline Competition Bureau of the Federal Communications Commission: Albert Lewis, John Hunter, and Doug Slotten. At this meeting, Omnitel and Tekstar reiterated the positions made in their filed comments in the above-captioned dockets

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supporting, in general, the Commission's proposal to address perceived concerns with so-called traffic stimulation.

We expressed support for the Commission's objectives of adopting rules that minimize future disputes between interexchange carriers ("IXCs") and LECs regarding the access services provided for stimulated traffic and facilitate payment when switched exchange access services consistent with the Communications Act and Commission's rules were provided, without prejudging any existing disputes for the period predating such new rules. As such, we emphasized that the Commission's proposal properly confirms that a local exchange carrier's ("LEC's) termination of traffic to conference calling companies qualifies as switched access service and that revenue sharing agreements are permissible.

In regard to the Commission's proposed trigger for traffic stimulation tariffs, we restated our belief it is appropriately tied to the activity of traffic stimulation. Further, because of our experience in dealing with IXCs, we stated our confidence that the trigger will be effective and enforceable, while imposing minimal regulatory burdens. Additional triggers proposed by various commenting parties, we noted, thus are not needed nor, because they are arbitrary, should they be imposed.

As for the Commission's proposed requirement that competitive LECs engaged in access revenue sharing benchmark to Bell Operating Company rates, we explained that Omnitel and Tekstar generally support the proposal, and we discussed the need to ensure any rules are competitively-neutral among LECs. Further, we put forth the alternate definition in the attachment for "access revenue sharing" as a possible model both to remove perceived circularity in the definition set forth in the January 2011 Notice of Proposed Rulemaking in the above-captioned dockets and to provide greater certainty regarding the scope of what would qualify as an access revenue sharing arrangement. Finally, we explained that there was no need in the context of traffic stimulation to adopt rules that IXCs need pay only for those functionalities provided by a LEC when terminating traffic because the Commission's rules and orders already make that obligation clear as a general matter.

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This notice of *ex parte* presentation is being filed as required by the Commission's Rules. We request that this letter, which is being filed electronically, be placed in the file for the above-captioned proceeding.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'E. Yorkgitis, Jr.', with a long, sweeping horizontal line extending to the right.

Edward A. Yorkgitis, Jr.

*Counsel for Omnitel Communications, Inc. and  
Tekstar Communications, Inc.*

Attachment: Alternate Definition for "Access Revenue Sharing"

cc: Albert Lewis  
John Hunter  
Doug Slotten

## APPENDIX C

### Proposed Access Stimulation Rules

Part 61 and Part 69 of the Code of Federal Regulations are amended as follows:

#### AMENDMENTS TO THE CODE OF FEDERAL REGULATIONS

##### Part 61 - TARIFFS

1. The authority citation for Part 61 continues to read as follows:

Authority: Secs. 1, 4(i), 4(j), 201-205 and 403 of the Communications Act of 1934, as amended; 47 U.S.C 151, 154(i), 154(j), 201-205 and 403, unless otherwise noted.

2. Section 61.3 is amended by adding paragraph (aaa) to read as follows:

##### **§ 61.3 Definitions.**

\* \* \* \* \*

(aaa) *Access revenue sharing.* Access revenue sharing occurs when a rate-of-return ILEC or a CLEC enters into an ~~access revenue sharing agreement~~ that will result in a net payment over the course of the agreement to the other party (including affiliates) to the ~~access revenue sharing agreement~~, in which payment by the rate-of-return ILEC or CLEC is tied to the billing or collection of access charges from interexchange carriers over the course of the agreement. ~~When determining whether there is a net payment under this rule, all payment, discounts, credits, services, features and functions, and other items of value, regardless of form, given by the rate-of-return ILEC or CLEC to the other party in connection with the shall be taken into account.~~ A rate-of-return ILEC or a CLEC meeting this trigger is subject to revised interstate switched access charge rules.

3. Section 61.26 is amended by revising subsections (b), (d) and (e) and adding new paragraph (g) as follows:

##### **§ 61.26 Tariffing of competitive interstate switched exchange access services.**

\* \* \* \* \*

(b) Except as provided in paragraphs (c), (e), and (g) of this section, a CLEC shall not file a tariff for its interstate switched exchange access services that prices those services above the higher of:

(1) The rate charged for such services by the competing ILEC or

(2) The lower of:

(i) The benchmark rate described in paragraph (c) of this section or

(ii) The lowest rate that the CLEC has tariffed for its interstate exchange access services, within the six months preceding June 20, 2001.

\* \* \* \* \*

(d) Except as provided in paragraph (g) of this section, and notwithstanding paragraphs (b) and (c) of this section, in the event that, after June 20, 2001, a CLEC begins serving end users in a